

Environmental Protection Agency

§ 1068.245

with applicable regulations. Note that the regulations limit the use of used engines from certain categories, such as converting land-based engines for use in marine vessels.

(iii) A new certified engine is available with the appropriate physical and performance characteristics.

(2) Anyone installing or completing assembly of an exempted new replacement engine is deemed to be a manufacturer of a new engine with respect to the prohibitions of § 1068.101(a)(1).

This applies to all engines exempted under this section.

(3) The stockpiling restrictions specified in § 1068.103(f) do not apply for engines that will be introduced into U.S. commerce only as allowed by this section. The model year restrictions specified in § 1068.103(f) do not apply for engines produced under paragraphs (d) and (e) of this section if you can demonstrate that the engines will be used only as replacement engines.

TABLE 1 TO § 1068.240—ENGINE CATEGORIES AND SUBCATEGORIES FOR STREAMLINED COMPLIANCE PROVISIONS FOR NEW REPLACEMENT ENGINES

Engine category	Standard-setting part ¹	Engine subcategories
Highway CI	40 CFR part 86	disp. < 0.6 L/cyl 0.6 ≤ disp. < 1.2 L/cyl disp. ≥ 1.2 L/cyl
Nonroad CI, Stationary CI, and Marine CI ..	40 CFR part 1039, or 40 CFR part 1042 ...	disp. < 0.6 L/cyl 0.6 ≤ disp. < 1.2 L/cyl 1.2 ≤ disp. < 2.5 L/cyl 2.5 ≤ disp. < 7.0 L/cyl
Marine SI	40 CFR part 1045	outboard. personal watercraft.
Large SI, Stationary SI, and Marine SI (sterndrive/ inboard only).	40 CFR part 1048 or 40 CFR part 1045	all engines.
Recreational vehicles	40 CFR part 1051	off-highway motorcycle. all-terrain vehicle. snowmobile.
Small SI and Stationary SI	40 CFR part 1054	handheld. Class I. Class II.

¹ Include an engine as being subject to the identified standard-setting part if it will eventually be subject to emission standards under that part. For example, if you certify marine compression-ignition engines under part 94, count those as if they were already subject to part 1042.

[73 59344, Oct. 8, 2008, as amended at 75 FR 23062, Apr. 30, 2010]

§ 1068.245 What temporary provisions address hardship due to unusual circumstances?

(a) After considering the circumstances, we may permit you to introduce into U.S. commerce engines/equipment that do not comply with emission-related requirements for a limited time if all the following conditions apply:

(1) Unusual circumstances that are clearly outside your control prevent you from meeting requirements from this chapter.

(2) You exercised prudent planning and were not able to avoid the violation; you have taken all reasonable

steps to minimize the extent of the nonconformity.

(3) No other allowances are available under the regulations in this chapter to avoid the impending violation, including the provisions of § 1068.250.

(4) Not having the exemption will jeopardize the solvency of your company.

(b) If your unusual circumstances are only related to compliance with the model-year provisions of § 1068.103(f), we may grant hardship under this section without a demonstration that the solvency of your company is in jeopardy as follows:

(1) You must demonstrate that the conditions specified in paragraphs (a)(1) through (3) of this section apply.

§ 1068.250

40 CFR Ch. I (7–1–10 Edition)

(2) Your engines/equipment must comply with standards and other requirements that would have applied if assembly were completed on schedule.

(3) You may generally request this exemption only for engines/equipment for which assembly has been substantially completed; you may not begin assembly of any additional engines/equipment under this exemption after the cause for delay has occurred. We may make an exception to this general restriction for secondary engine manufacturers.

(4) As an example, if your normal production process involves purchase of partially complete engines and a supplier fails to deliver all the ordered engines in time for your assembly according to your previously established schedule as a result of a fire at its factory, you may request that we treat those engines as if they had been completed on the original schedule. Note that we would grant relief only for those engines where you had a reasonable basis for expecting the engines to be delivered on time based on past performance and terms of purchase.

(c) To apply for an exemption, you must send the Designated Compliance Officer a written request as soon as possible before you are in violation. In your request, show that you meet all the conditions and requirements in paragraph (a) of this section.

(d) Include in your request a plan showing how you will meet all the applicable requirements as quickly as possible.

(e) You must give us other relevant information if we ask for it.

(f) We may include reasonable additional conditions on an approval granted under this section, including provisions to recover or otherwise address the lost environmental benefit or paying fees to offset any economic gain resulting from the exemption. For example, in the case of multiple tiers of emission standards, we may require that you meet the standards from the previous tier whether or not your hardship is granted under paragraph (b) of this section.

(g) Add a permanent label to all engines/equipment exempted under this section, consistent with §1068.45, with at least the following items:

(1) The label heading “EMISSION CONTROL INFORMATION”.

(2) Your corporate name and trademark.

(3) Engine displacement (in liters or cubic centimeters), and model year of the engine/equipment, (as applicable); or whom to contact for further information. We may also require that you include maximum engine power.

(4) A statement describing the engine’s status as an exempted engine:

(i) If the engine/equipment does not meet any emission standards, add one of the following statements:

(A) “THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.245 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.”

(B) “THIS EQUIPMENT IS EXEMPT UNDER 40 CFR 1068.245 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.”

(ii) If the engines/equipment meet alternate emission standards as a condition of an exemption under this section, we may specify a different statement to identify the alternate emission standards.

§ 1068.250 What are the provisions for extending compliance deadlines for small businesses under hardship?

(a) After considering the circumstances, we may extend the compliance deadline for you to meet new or revised emission standards as long as you meet all the conditions and requirements in this section.

(b) You must be a small business to be eligible for this exemption.

(c) Send the Designated Compliance Officer a written request for an extension. In your request, show that all the following conditions and requirements apply:

(1) You have taken all possible business, technical, and economic steps to comply.

(i) In the case of importers of engines/equipment produced by other companies, show that you attempted to find a manufacturer capable of supplying complying products as soon as you became aware of the applicable requirements but were unable to do so.

(ii) For all other manufacturers, show that the burden of compliance